

Subpart A—General

§ 583.1 Purpose and scope.

(a) *General.* The Supportive Housing Program is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11381–11389). The Supportive Housing program is designed to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible.

(b) *Components.* Funds under this part may be used for:

- (1) Transitional housing to facilitate the movement of homeless individuals and families to permanent housing;
- (2) Permanent housing that provides long-term housing for homeless persons with disabilities;
- (3) Housing that is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless persons; or
- (4) Supportive services for homeless persons not provided in conjunction with supportive housing.

[58 FR 13871, Mar. 15, 1993, as amended at 61 FR 51175, Sept. 30, 1996]

§ 583.5 Definitions

As used in this part: *Applicant* is defined in section 422(1) of the McKinney Act (42 U.S.C 11382(1)). For purposes of this definition, governmental entities include those that have general governmental powers (such as a city or county), as well as those that have limited or special powers (such as public housing agencies).

Consolidated plan means the plan that a jurisdiction prepares and submits to HUD in accordance with 24 CFR part 91.

Date of initial occupancy means the date that the supportive housing is initially occupied by a homeless person for whom HUD provides assistance under this part. If the assistance is for an existing homeless facility, the *date of initial occupancy* is the date that services are first provided to the residents of supportive housing with funding under this part.

Date of initial service provision means the date that supportive services are initially provided with funds under this part to homeless persons who do not reside in supportive housing. This definition applies only to projects funded under this part that do not provide supportive housing.

Disability is defined in section 422(2) of the McKinney Act (42 U.S.C 11382(2)).

Homeless person means an individual or family that is described in section 103 of the McKinney Act (42 U.S.C 11302).

Metropolitan city is defined in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C 5302(a)(4)). In general, metropolitan cities are those cities that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

New construction means the building of a structure where none existed or an addition to an existing structure that increases the floor area by more than 100 percent.

Operating costs is defined in section 422(5) of the McKinney Act (42 U.S.C 11382(5)).

Outpatient health services is defined in section 422(6) of the McKinney Act (42 U.S.C. 11382(6)).

Permanent housing for homeless persons with disabilities is defined in section 424(c) of the McKinney Act (42 U.S.C. 11384(c)).

Private nonprofit organization is defined in section 422(7) (A), (B), and (D) of the McKinney Act (42 U.S.C. 11382(7) (A), (B), and (D)). The organization must also have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles.

Project is defined in sections 422(8) and 424(d) of the McKinney Act (42 U.S.C. 11382(8), 11384(d)).

Recipient is defined in section 422(9) of the McKinney Act (42 U.S.C. 11382(9)).

Rehabilitation means the improvement or repair of an existing structure or an addition to an existing structure that does not increase the floor area by more than 100 percent. Rehabilitation does not include minor or routine repairs.

State is defined in section 422(11) of the McKinney Act (42 U.S.C. 11382(11)).

Supportive housing is defined in section 424(a) of the McKinney Act (42 U.S.C. 11384(a)).

Supportive services is defined in section 425 of the McKinney Act (42 U.S.C. 11385).

Transitional housing is defined in section 424(b) of the McKinney Act (42 U.S.C. 11384(b)). See also § 583.300(j).

Tribe is defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

Urban county is defined in section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)). In general, urban counties are those counties that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

[61 FR 51175, Sept. 30, 1996]

Subpart B—Assistance Provided

§ 583.100 Types and uses of assistance.

(a) *Grant assistance.* Assistance in the form of grants is available for acquisition of structures, rehabilitation of structures, acquisition and rehabilitation of structures, new construction, leasing, operating costs for supportive housing, and supportive services, as described in §§ 583.105 through 583.125. Applicants may apply for more than one type of assistance.

(b) *Uses of grant assistance.* Grant assistance may be used to:

- (1) Establish new supportive housing facilities or new facilities to provide supportive services;
- (2) Expand existing facilities in order to increase the number of homeless persons served;
- (3) Bring existing facilities up to a level that meets State and local government health and safety standards;
- (4) Provide additional supportive services for residents of supportive housing or for homeless persons not residing in supportive housing;
- (5) Purchase HUD-owned single family properties currently leased by the applicant for use as a homeless facility under 24 CFR part 291; and

space. In addition, the rent paid may not exceed rents currently being charged by the same owner for comparable space.

(2) *Leasing individual units.* Where grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services. In addition, the rents may not exceed rents currently being charged by the same owner for comparable unassisted units, and the portion of rents paid with grant funds may not exceed HUD-determined fair market rents. Recipients may use grant funds in an amount up to one month's rent to pay the non-recipient landlord for any damages to leased units by homeless participants.

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 36891, July 19, 1994]

§ 583.120 Grants for supportive services costs.

(a) *General.* HUD will provide grants to pay (as described in § 583.130 of this part) for the actual costs of supportive services for homeless persons for up to five years. All or part of the supportive services may be provided directly by the recipient or by arrangement with public or private service providers.

(b) *Supportive services costs.* Costs associated with providing supportive services include salaries paid to providers of supportive services and any other costs directly associated with providing such services. For a transitional housing project, supportive services costs also include the costs of services provided to former residents of transitional housing to assist their adjustment to independent living. Such services may be provided for up to six months after they leave the transitional housing facility.

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 36891, July 19, 1994]

§ 583.125 Grants for operating costs.

(a) *General.* HUD will provide grants to pay a portion (as described in § 583.130) of the actual operating costs of supportive housing for up to five years.

(b) *Operating costs.* Operating costs are those associated with the day-to-day operation of the supportive housing. They also include the actual expenses that a recipient incurs for conducting on-going assessments of the supportive services needed by residents and the availability of such services; relocation assistance under § 583.310, including payments and services; and insurance.

(c) *Recipient match requirement for operating costs.* Assistance for operating costs will be available for up to 75 percent of the total cost in each year of the grant term. The recipient must pay the percentage of the actual operating costs not funded by HUD. At the end of each operating year, the recipient must demonstrate that it has met its match requirement of the costs for that year.

[58 FR 13871, Mar. 15, 1993, as amended at 61 FR 51175, Sept. 30, 1996; 65 FR 30823, May 12, 2000]

§ 583.130 Commitment of grant amounts for leasing, supportive services, and operating costs

Upon execution of a grant agreement covering assistance for leasing, supportive services, or operating costs, HUD will obligate amounts for a period not to exceed five operating years. The total amount obligated will be equal to an amount necessary for the specified years of operation, less the recipient's share of operating costs.

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[59 FR 36891, July 19, 1994]

(2) Organizations that are directly funded under the Supportive Housing Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the Supportive Housing Program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Supportive Housing Program funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide Supportive Housing Program-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a Supportive Housing Program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the Supportive Housing Program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to Supportive Housing Program funds in this part. Sanctuaries, chapels, or other rooms that a Supportive Housing Program-funded religious congregation uses as its principal place of worship, however, are ineligible for Supportive Housing Program-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (*see* 24 CFR parts 84 and 85).

(6) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

(c) *Participant control of site.* Where an applicant does not propose to have control of a site or sites but rather proposes to assist a homeless family or individual in obtaining a lease, which may include assistance with rent payments and receiving supportive services, after which time the family or individual remains in the same housing without further assistance under this part, that applicant may not request assistance for acquisition, rehabilitation, or new construction. [58 FR 13871, Mar. 15, 1993, as amended at 59 FR 36892, July 19, 1993; 68 FR 56407, Sept. 30, 2003]

§ 583.155 Consolidated plan.

(a) *Applicants that are States or units of general local government.* The applicant must have a HUD-approved complete or abbreviated consolidated plan, in accordance with 24 CFR part 91, and must submit a certification that the application for funding is consistent with the

procedures required by part 58 and the environmental certification and RROF have been approved or HUD has performed an environmental review under part 50 and the recipient has received HUD approval of the property. HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the recipient submits and HUD approves its RROF (where such submission is required).

[68 FR 56131, Sept. 29, 2003]

§ 583.235 Renewal grants.

(a) *General.* Grants made under this part, and grants made under subtitles C and D (the Supportive Housing Demonstration and SAFAH, respectively) of the Stewart B. McKinney Homeless Assistance Act as in effect before October 28, 1992, may be renewed on a noncompetitive basis to continue ongoing leasing, operations, and supportive services for additional years beyond the initial funding period. To be considered for renewal funding for leasing, operating costs, or supportive services, recipients must submit a request for such funding in the form specified by HUD, must meet the requirements of this part, and must submit requests within the time period established by HUD.

(b) *Assistance available.* The first renewal will be for a period of time not to exceed the difference between the end of the initial funding period and ten years from the date of initial occupancy or the date of initial service provision, as applicable. Any subsequent renewal will be for a period of time not to exceed five years. Assistance during each year of the renewal period, subject to maintenance of effort requirements under § 583.150(a) may be for:

(1) Up to 50 percent of the actual operating and leasing costs in the final year of the initial funding period;

(2) Up to the amount of HUD assistance for supportive services in the final year of the initial funding period; and

(3) An allowance for cost increases.

(c) *HUD review.* (1) HUD will review the request for renewal and will evaluate the recipient's performance in previous years against the plans and goals established in the initial application for assistance, as amended. HUD will approve the request for renewal unless the recipient proposes to serve a population that is not homeless, or the recipient has not shown adequate progress as evidenced by an unacceptably slow expenditure of funds, or the recipient has been unsuccessful in assisting participants in achieving and maintaining independent living. In determining the recipient's success in assisting participants to achieve and maintain independent living, consideration will be given to the level and type of problems of participants. For recipients with a poor record of success, HUD will also consider the recipient's willingness to accept technical assistance and to make changes suggested by technical assistance providers. Other factors which will affect HUD's decision to approve a renewal request include the following: a continuing history of inadequate financial management accounting practices, indications of mismanagement on the part of the recipient, a drastic reduction in the population served by the recipient, program changes made by the recipient without prior HUD approval, and loss of project site.

(2) HUD reserves the right to reject a request from any organization with an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit finding is overdue or unsatisfactory.

(3) HUD will notify the recipient in writing that the request has been approved or disapproved.

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(d) *Ongoing assessment of supportive services.* Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services required by the residents of the project and the availability of such services, and make adjustments as appropriate.

(e) *Residential supervision.* Each recipient of assistance under this part must provide residential supervision as necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate supportive housing. Residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide or to supervise the provision of supportive services to the residents.

(f) *Participation of homeless persons.* (1) Each recipient must provide for the participation of homeless persons as required in section 426(g) of the McKinney Act (42 U.S.C. 11386(g)). This requirement is waived if an applicant is unable to meet it and presents a plan for HUD approval to otherwise consult with homeless or formerly homeless persons in considering and making policies and decisions. See also § 583.330(e).

(2) Each recipient of assistance under this part must, to the maximum extent practicable, involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services for the project.

(g) *Records and reports.* Each recipient of assistance under this part must keep any records and make any reports (including those pertaining to race, ethnicity, gender, and disability status data) that HUD may require within the timeframe required.

(h) *Confidentiality.* Each recipient that provides family violence prevention or treatment services must develop and implement procedures to ensure:

- (1) The confidentiality of records pertaining to any individual services; and
- (2) That the address or location of any project assisted will not be made public, except with written authorization of the person or persons responsible for the operation of the project.

(i) *Termination of housing assistance*

The recipient may terminate assistance to a participant who violates program requirements. Recipients should terminate assistance only in the most severe cases. Recipients may resume assistance to a participant whose assistance was previously terminated. In terminating assistance to a participant, the recipient must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process, at a minimum, must consist of:

- (1) Written notice to the participant containing a clear statement of the reasons for termination;
- (2) A review of the decision, in which the participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
- (3) Prompt written notice of the final decision to the participant.

(j) *Limitation of stay in transitional housing.* A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months.

(k) *Outpatient health services.* Outpatient health services provided by the recipient must be approved as appropriate by HUD and the Department of Health and Human Services (HHS).

of acquisition, rehabilitation, or demolition for supportive housing projects assisted under this part. The term "displaced person" includes, but may not be limited to:

(i) A person that moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice, or refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance, if the move occurs on or after the date the recipient submits to HUD the application or application amendment designating the project site.

(ii) Any person, including a person who moves before the date described in paragraph (f)(1)(i) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves permanently from the building/complex on or after the date of the "initiation of negotiations" (see paragraph (g) of this section) if the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or

(B) 30 percent of gross household income. If the initial rent is at or near the maximum, there must be a reasonable basis for concluding at the time the project is initiated that future rent increases will be modest.

(iv) A tenant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) A tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the same building/complex, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local or tribal law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(2) Where grant funds will be used to lease all or part of a structure to provide supportive housing or supportive services, or where grant funds will be used to lease individual housing units for homeless persons who will eventually control the units, site control need not be demonstrated.

(b) *Site change.* (1) A recipient may obtain ownership or control of a suitable site different from the one specified in its application. Retention of an assistance award is subject to the new site's meeting all requirements under this part for suitable sites.

(2) If the acquisition, rehabilitation, acquisition and rehabilitation, or new construction costs for the substitute site are greater than the amount of the grant awarded for the site specified in the application, the recipient must provide for all additional costs. If the recipient is unable to demonstrate to HUD that it is able to provide for the difference in costs, HUD may deobligate the award of assistance.

(c) *Failure to obtain site control within one year.* HUD will recapture or deobligate any award for assistance under this part if the recipient is not in control of a suitable site before the expiration of one year after initial notification of an award.

§ 583.325 Nondiscrimination and equal opportunity requirements.

(a) *General.* Notwithstanding the permissibility of proposals that serve designated populations of disabled homeless persons, recipients serving a designated population of disabled homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status, and disability.

(b) *Nondiscrimination and equal opportunity requirements.* The nondiscrimination and equal opportunity requirements set forth at part 5 of this title apply to this program. The Indian Civil Rights Act (25 U.S.C. 1301 et seq.) applies to tribes when they exercise their powers of self-government, and to Indian housing authorities (IHAs) when established by the exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(c) *Procedures.* (1) If the procedures that the recipient intends to use to make known the availability of the supportive housing are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for admission to the housing, the recipient must establish additional procedures that will ensure that such persons can obtain information concerning availability of the housing.

(2) The recipient must adopt procedures to make available information on the existence and locations of facilities and services that are accessible to persons with a handicap and maintain evidence of implementation of the procedures.

(d) *Accessibility requirements.* The recipient must comply with the new construction accessibility requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, and the reasonable accommodation and rehabilitation accessibility requirements of section 504 as follows:

(1) All new construction must meet the accessibility requirements of 24 CFR 8.22 and, as applicable, 24 CFR 100.205.

(2) Projects in which costs of rehabilitation are 75 percent or more of the replacement cost of the building must meet the requirements of 24 CFR 8.23(a). Other rehabilitation must meet the requirements of 24 CFR 8.23(b).

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 33894, June 30, 1994; 61 FR 5210, Feb. 9, 1996; 61 FR 51176, Sept. 30, 1996]

(i) For States and other governmental entities, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) For all recipients, an opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(3) In determining whether to grant a requested exception after the recipient has satisfactorily met the requirement of paragraph (e)(2) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project which would otherwise not be available;

(ii) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (e)(1) of this section;

(v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vi) Any other relevant considerations.

(f) *Audit.* The financial management systems used by recipients under this program must provide for audits in accordance with 24 CFR part 44 or part 45, as applicable. HUD may perform or require additional audits as it finds necessary or appropriate.

(g) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act do not apply to this program.

[58 FR 13871, Mar. 15, 1993, as amended at 61 FR 5211, Feb. 9, 1996; 64 FR 50226, Sept. 15, 1999]

Subpart E—Administration

§ 583.400 Grant agreement.

(a) *General.* The duty to provide supportive housing or supportive services in accordance with the requirements of this part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be appropriate, including repayment of funds that have already been disbursed to the recipient.

§ 583.405 Program changes.

(a) *HUD approval.* (1) A recipient may not make any significant changes to an approved program without prior HUD approval. Significant changes include, but are not limited to, a change in the recipient, a change in the project site, additions or deletions in the types of activities listed in § 583.100 of this part approved for the program or a shift of more than 10 percent of funds from one approved type of activity to another, and a change in the category of participants to be served. Depending on the nature of the change, HUD may require a new certification of consistency with the consolidated plan (see § 583.155).